

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

C. ROBERT H. SHUMAR, JR., *et al.*,)
)
Plaintiffs,) Civil Action No. 21-1132
)
v.) Judge Cathy Bissoon
)
THE ESTATE OF SON德拉 SPAUGY,)
et al.,)
)
Defendants.)

ORDER

On March 14, 2024, Plaintiffs were ordered to show cause why the claims against Defendant THE ESTATE OF SON德拉 SPAUGY should not be dismissed for failure to prosecute. *See* text-Order at Doc. 42. On March 20, 2024, Plaintiffs' counsel file a written response, stating, in entirety:

The Estate . . . was opened by Petition for Grant of Letters to the Westmoreland Register of Wills on November 2, 2022. Apparently, no Certification of Notice Under Rule 10.5 of the Orphan's Court Rules was filed. As such, the Certification became delinquent on February 12, 2023. Notice of the delinquency was issued by the Westmoreland County Register of Wills on April 12, 2023. Plaintiff[s'] counsel has been unsuccessful in his attempts to contact a representative of the estate.

Doc. 43 (paragraph numbers omitted).

If anything, Plaintiffs' Response does more to *support* a dismissal for failure to prosecute than show cause against it. Plaintiffs now appear no better positioned to assert claims against the Estate than when they initiated this lawsuit, over two and a half years ago. The Response fails to explain the legal significance of the events and omissions-described, and no action plan is proposed. Frankly, the Court has no idea what it might be expected to do with the information.

Plaintiffs have failed to show cause why the claims against the Estate should not be dismissed under Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863 (3d Cir. 1984).

Dismissal is warranted under the factors regarding personal responsibility; the failure to demonstrate excusable neglect; and the lack of effective alternative sanctions. *Id.* at 868.

Accordingly, Plaintiffs' claims against Defendant THE ESTATE OF SON德拉 SPAUGY are **DISMISSED**. In light of the long, unexcused delays already occasioned – and the prejudice to the remaining Defendants that would result from further delay – the dismissal is **WITH PREJUDICE**. Finally, the Court states no opinion regarding the consequences of the dismissal, if any, as relate to the remaining claims.

IT IS SO ORDERED.

March 21, 2024

s/Cathy Bissoon

Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record